Decision **PROPOSED DECISION OF ALJ DeBERRY (Mailed 5/30/2003)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Water Company (U 133 E) for a Certificate of Public Convenience and Necessity Pursuant to Public Utilities Code Section 1001 to Construct an 8.4 MW Natural Gas-Fueled Generator Facility in its Bear Valley Electric Service Division.	Application 02-04-001 (Filed April 4, 2002)

Omelveny & Myers, L.L.P by Patricia A. Schmiege,
Attorney at Law.
Joanna Moore, Attorney at Law, for
Southern California Edison Company, and
Keith Switzer, for Southern California Water Company.

DECISION GRANTING APPLICATION OF SOUTHERN CALIFORNIA WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AN 8.4 MEGAWATT GENERATOR FACILITY IN THE BEAR VALLEY ELECTRIC SERVICE AREA

Summary

This decision grants the application of Southern California Water Company (SCWC) for a Certificate of Public Convenience and Necessity (CPCN) to construct an 8.4-megawatt (MW) gas-fueled generation facility on its property in the City of Big Bear Lake (City). The generation facility provides a necessary additional source of power to meet peak load demands. This decision finds that SCWC has met the requirements of Pub. Util. Code § 1001 and that the information provided fulfills the Commission's obligations as a Responsible

Agency under the California Environmental Quality Act (CEQA). This decision makes no findings regarding the reasonableness of the cost of the generating facility and directs SCWC to file an application prior to including any generation facility costs in rates.

Background

SCWC, through its Bear Valley Electric Service Division (BVESD), provides electric service to approximately 21,700 customers. On April 4, 2002, SCWC filed an application pursuant to Pub. Util. Code § 1001[1] for a CPCN to construct an 8.4-MW gas-fueled generator on a portion of BVESD property in the City.

At an elevation of approximately 6,700 feet, BVESD is a mountain resort area that is primarily oriented toward the ski industry, and therefore experiences its peak loads during the winter months. BVESD is surrounded by national forest lands, and receives power through two transmission lines operated by Southern California Edison Company (Edison), with a total capacity of 35-MW. An "underbuild" line,[2] constructed by Edison in 1999, provides an additional 4-MW of capacity, for a total transmission capacity of 39-MW. Although SCWC does not generate any of its own power, it owns and operates approximately 241 miles of distribution lines[3] and 14 substations within BVESD.

About 93% of BVESD customers are residential, and a third of these line in the area on a full-time basis. The remaining two-thirds of residential customers are seasonal and live in Bear Valley part-time. During the winter months the

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[1] All references are to the Pub. Util. Code unless otherwise noted.

[2] An underbuild line is one built underneath an existing transmission line on the same poles.

[3] Approximately 40 miles of the distribution lines are underground.

maximum firm residential demand is about 24-MW, while commercial and industrial customers' maximum demand is approximately 10-MW, or a total maximum peak firm demand of 34-MW. Non-firm peak demand from interruptible customers, ski resorts and a wastewater facility is approximately 15-MW; however, this demand is non-coincident with firm demand. SCWC states that growth in firm demand, projected at 2.4% per year, could increase demand by as much as 7-MW in less than 10 years. As a result, the demand from firm customers will diminish the ability of SCWC to provide power to its interruptible customers without an additional source of power. On December 29, 2002, SCWC recorded a new system peak of 39-MW, including an estimated 31.4-MW of firm demand.

Thus, SCWC contends that future public convenience and necessity require the generator facility because SCWC needs an additional source of power to reliably and economically meet its electric customers' peak demand. SCWC states that peak demand in its BVESD during the winter months already exceeds the amount of power it can import into its service territory. SCWC argues that the proposed generator facility will increase reliability in the event of outages on the transmission lines, and provide an alternative to spot market purchases to meet peak demand. SCWC states that the proposed location on SCWC property is available and well suited for this purpose, and generation within the service territory will improve system voltage and reduce line losses. SCWC also states that the City conducted a full review under CEQA, resulting in the City's adoption of a Mitigated Negative Declaration. SCWC asserts it is ready to proceed with the project upon approval of its application by the Commission.

In response, Edison states that there is an unresolved dispute with SCWC over the proposed construction of a 115-kilovolt (kV) transmission project into

Bear Valley,[4] and therefore Edison has a significant interest in the proceeding as it might impact this dispute. However, Edison states it does not oppose SCWC's application and would only file testimony if the dispute concerning the transmission project became material to the application.

The Office of Ratepayer Advocates (ORA) timely protested SCWC's application, stating that the application should only go forward after resolution of certain issues, including an examination of available alternatives, the impact on rates, and whether the cost of the proposed generating facility might be offset through excess power production sales. At a prehearing conference held October 23, 2002, requested evidentiary hearings.

ORA submitted direct testimony on January 15, 2003, and SCWC submitted rebuttal testimony on January 29, 2003. An evidentiary hearing was held February 13, 2003. Opening briefs were filed March 4, 2003, and reply briefs were filed March 17, 2003. The matter was deemed submitted on March 17, 2003.

ORA's Position

ORA argues that the Commission should dismiss SCWC's application without prejudice since SCWC did not meet its burden of showing that the proposed generation project is necessary, superior to other alternatives, or cost effective. ORA contends that SCWC has not considered alternatives, including demand-side management on conservation or customer-owned generation, and

[4] Proposed construction of a double-circuit 115-kV line began in 1989 with a series of agreements between SCWC and Edison. The line corridor would pass through United States Forest Service (USFS) lands. Since this line was not completed by 1995, it became subject to General Order 131-D. Later, Edison proposed construction of a single-circuit 115-kV line; however after delays due to various concerns, and changing costs, a dispute arose over this line resulting in litigation between SCWC and Edison.

that a basis for issuing a CPCN must consider other values not derived from a load forecast.[5] ORA recommends that the Commission require SCWC to provide a revised load forecast and a benefit-cost analysis demonstrating that the proposed generation project is the most cost-effective alternate.

ORA argues that under the scenarios evaluated by SCWC, including the addition of other generators in the future, SCWC has not demonstrated the superiority of the generator facility over building the 115-kV line. ORA asserts that although SCWC computed positive net-present-value (NPV) savings when comparing the 115-kV line to adding generators, these computations do not include potential sales from additional capacity on the 115-kV line. ORA argues that the additional capacity would permit SCWC to sell additional power to its current interruptible customers, and improve the cost effectiveness of the line through increased revenues. As a "no-build" alternative, ORA points out that the 4-MW underbuild line adds an 11% reserve to the current 35-MW capacity.

ORA maintains SCWC should provide a cost analysis comparing all feasible alternative sources of power,[6] and not merely conclude that the proposed generation facility is the least-cost alternative. Accordingly, ORA believes SCWC should quantify ratepayer costs of a no-build option, including loss of service reliability such as blackouts,[7] and provide additional cost-benefit analyses. Finally, ORA recommends that if the Commission authorizes SCWC to construct

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[5] Section 1002 includes community, recreational, historic and other values to be considered before issuing a CPCN.

[6] Section 1003(d).

[7] ORA's witness stated that he would add new generation when the firm customer demand was within 1-MW of capacity.

the generation facility, then costs should be based on competitive bids, and all costs, including overhead, should be justified.

SCWC's Position

SCWC developed eight load forecasts using regression analyses based on customer growth and usage by customer class. SCWC points out that despite the 39-MW record peak in December 2002, none of the eight forecasts includes a peak demand of 39-MW until at least 2006/7; thus, SCWC asserts that all of the forecasts may understate future growth. SCWC states that although there were declines in recorded peak demand in 2000 and 2001, these are a result of the power problems existing throughout the state in these years and do not indicate future demand. Instead, SCWC contends that the December 2002 peak of 39-MW is a better indicator of future demand.

SCWC argues it is unreasonable to assume that power sales to interruptible customers can be reduced to meet increasing power demands of firm customers. SCWC explains that the interruptible customers, primarily ski areas, are the largest employers in BVESD, and that eliminating or substantially reducing electric service to these customers will have significant negative economic effects on the entire local community.

In response to growing demand, SCWC states that it has reached the limit of its capacity to import power for BVESD, and that the proposed generator facility is the least-cost alternative to providing additional capacity. In reaching its conclusion, SCWC states it considered increasing capacity through the construction of the 115-kV line, purchasing power locally through a third-party generator, and reducing demand through demand-side management and customer self-generation.

SCWC argues that it cannot rely on the underbuild line as a permanent power source. SCWC cites a USFS letter to Edison[8] stating that the underbuild line is temporary and will be removed upon construction of the 115-kV line; however, the letter is silent on the future status of the underbuild line if the 115-kV line is not built. SCWC contends that this uncertainty and environmental concerns of the USFS and the United States Fish and Wildlife Service suggest the underbuild line will eventually be removed.

SCWC contends the proposed 115-kV line is not viable due to the current litigation with Edison, unresolved issues over environmental concerns and costs.[9] Given these issues, SCWC considers the 115-kV line as essentially "dead." SCWC also considered purchasing power from local third-party generators and customer self-generation. However, power from third-party generators would not provide flexibility in dispatch, and purchases would be costly; similarly, customer self-generation would be inefficient and costly. SCWC states it is implementing demand-side management, and that about a 0.3-MW reduction was in place when SCWC experienced its peak demand of 39-MW.

SCWC also provides information on the process it used for planning the proposed generation facility and developing estimated costs.[10] SCWC explains that it engaged in a competitive bid process by issuing a request for proposals for

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[8] Exhibit 4, at Appendix II.

[9] Edison originally estimated a project cost of about $10 million. SCWC estimates current cost at about $ 22 million.

[10] Exhibit 1 includes descriptions of the relationship between the contractor and SCWC, and alternative sources of power, including comparable cost estimates. Exhibit 1 attachments include preliminary engineering and design information, a project plan and location, and a preliminary cost estimate for the proposed generation facility.

firm capacity and energy resulting in negotiations and an agreement to construct the generation facility for $8.9 million. SCWC states that additional costs for project management, engineering, overhead and contingencies raise the total estimated cost to approximately $13 million.

If the generation facility is constructed as proposed, SCWC estimates savings of approximately $69,000 per year due to reduced line losses. Also, the facility would provide a generation source within the service territory and thus improve reliability. SCWC points out that a recent Federal Energy Regulatory Commission (FERC) order[11] in response to the California Independent System Operator's Market Redesign Proposal endorses a requirement for load-serving entities, such as SCWC, to procure advance adequate resources to cover projected monthly peak loads. SCWC contends its proposed generation facility will fulfill the requirements of this FERC order.

Peak Load Forecasts

The load forecasts are an initial point of disagreement between SCWC and ORA. ORA argues that none of SCWC's eight forecasts include the effects of current economic conditions, and therefore SCWC should provide revised forecasts. However, SCWC made its forecasts in February 2001, thus including many of the effects of the 2000-01 power crisis, if not including the most recent changes in the economy. Furthermore, at SCWC's projected 2.4% growth in firm demand, growth in firm demand equates to almost 1 MW per year. At this rate, in five or six years, even peak firm demand will exceed the total transmission capacity, including the capacity of the underbuild line.

[11] Available Capacity Obligation, July 17, 2002. (Exhibit 1, pp. 12-13.)

Neither SCWC nor ORA provided any other forecasts or regression analyses of peak demand. The eight forecasts show peak demand of 40 to 43 MW within 10 years, and one forecast shows peak demand of 39-MW within three to four years. Furthermore, the actual recorded system peak in December 2002 exceeds any of the 2002 forecasted peaks by a substantial margin, indicating that the load forecasts may understate future demand. After reviewing these forecasts, and considering the recorded system peak of 39-MW in December 2002, we conclude that BVESD will require additional power at a future date, including power for growth in firm customer demand. Whether this growth will occur earlier than forecast is uncertain; however, the maximum peak demand has already reached the maximum transmission capacity. While SCWC may be able to meet its firm demand for a few years, as growth continues non-firm customers will be interrupted at an increasing frequency until such service approaches zero. It is unreasonable that non-firm customers should expect their service to decline in this manner, or that the reserve for firm customers should continue to decrease. It is not in the interest of SCWC customers to initiate a process to add new capacity when reserve margins are so low that blackouts may occur for firm customers. As demonstrated by the 115-kV line 14-year planning experience, planning, designing and constructing new power sources can be a long process.

Power Source Alternatives

Since we find that the forecasts for both firm and system peak demand indicate a need for new power, we turn to the question of alternative power sources. ORA argues for a number of power alternatives including demand-side management or conservation. In response, SCWC states it has already engaged in demand-side management and/conservation and achieved some reductions in

usage.[12] Although we encourage SCWC to continue its implementation of demand-side management and conservation, based on potential estimates, these efforts will not meet future energy needs.

Substantial testimony and cross-examination focused on the viability of the 115-kV line as a power alternative. SCWC argues that the 115-kV line litigation with Edison and unsettled resolution of environmental issues render this option uncertain. Even if the litigation and environmental issues are resolved, SCWC asserts that the 115-kV line would cost $7 to $10 million more than the generation facility. This cost differential plus future additional costs make this alternative uneconomic. ORA contends that the 50-MW capacity of the 115-kV line could provide excess power for additional customer sales, thus offsetting the additional cost of this line over the proposed generation facility. However, SCWC points out that its cost analyses are based on two generating units increasing system capacity to 51.1-MW (35 MW plus 2x8.4 MW). One 8.4-MW unit would be constructed immediately, and another 8.4-MW unit would be constructed between 2011 and 2018. Furthermore, current non-firm customers' energy sales are slightly less than $2 million, and it is unreasonable to expect additional sales to increase by over 300% from these customers. As no party offered information to demonstrate with any certainty that this line will be constructed, and for the reasons discussed, we conclude that the 115-kV line is not a viable power alternative.

[12] ORA did not provide any additional estimates of demand-side management/conservation. SCWC estimates that it has achieved an 0.3-MW reduction in peak demand, and that there is a potential for 0.7-MW reduction in peak demand.

Although there is also uncertainty regarding the underbuild line, the testimony shows it is currently operating and has increased transmission capacity from 35-MW to 39-MW. ORA and SCWC disagree over how long the line will remain in place. ORA contends that the underbuild line is permanent, while SCWC asserts that the USFS letter informs Edison that this line is temporary and will be removed. Neither SCWC nor ORA could state with certainty how long this line will continue to provide capacity without construction of the 115-kV line. At this time the underbuild line provides a reserve margin for firm customers and limited additional capacity to serve non-firm customers. However, even with this additional capacity, eventually there will be deterioration in the ability of SCWC to serve its firm customers, along with increasing disruptions in service to non-firm customers.

Although ORA recommends at least a two-year delay before construction, and possible generation of additional energy in three years,[13] there is no apparent ratepayer advantage to delaying additional capacity. The recorded system peak has already equaled the transmission system capacity including the underbuild line, and there is no indication that costs for new power sources will decline. Without additional capacity, BVESD will experience reduced reserve margins for its firm customers, increasing reductions in service to non-firm customers, and associated negative economic consequences to the community. This result is not in the interests of BVESD ratepayers.

The proposed generation facility is the most cost-effective power source to meet the additional capacity need. The costs and associated financial impacts are

[13] TR 80.

attached to ORA's Exhibit 4, and also described in SCWC's Exhibit 1. This information shows that at an estimated cost of approximately $13 million, the generation facility is less costly than the 115-kV line, the construction of which is uncertain. After review and consideration of the load forecasts, feasible alternate resources, and economic effects on the BVESD community, we conclude that the application of SCWC for a CPCN to construct its proposed generation facility should be granted.

We recognize that construction of the generation facility has other potential benefits. As SCWC points out, this facility will provide a local generation source in the event of outages on the existing transmission lines, and will thus increase safety by serving emergency loads, and assist in meeting new FERC resource requirements. Furthermore, the facility will reduce line losses, and potentially reduce overall energy costs, thus saving money for ratepayers.

In granting SCWC's request for a CPCN, we find that for the reasons discussed above, SCWC has met its burden of meeting the requirements of § 1002, and providing a cost analysis under § 1003(d). We will make this order effective today so that SCWC may proceed expeditiously with its proposed generation project.

Environmental Review

CEQA (Pub. Resources Code Sections 21000, *et.seq.*) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to "inform governmental decision-makers and the public about the potential, significant environmental effects of the proposed activities." (Title 14 of the California Code of Regulations, hereinafter "CEQA Guidelines," § 15002.)

Since the proposed project is subject to CEQA and the Commission must issue a discretionary decision without which the project cannot proceed, this Commission must act as either a Lead or a Responsible Agency under CEQA. The Lead Agency is the public agency with the greatest responsibility for supervising or approving the project as a whole (CEQA Guidelines Section 15051(b)).

In this instance, the City is the Lead Agency for the generating project, and the Commission is the Responsible Agency. On January 30, 2001, the City issued Resolution No. PC2001-04 adopting a Mitigated Negative Declaration and Mitigation Monitoring Program Approving Site Approval and Design Review Application for the proposed 8.4-MW generation facility. The Resolution contains site-specific environmental impact analyses, required mitigation measures, and a mitigation measuring monitoring program. The Resolution includes a finding that all potential adverse environmental impacts can be mitigated to a level of insignificance through the incorporation of mitigation measures.

As the Responsible Agency under CEQA, the Commission's role is limited to reviewing the environmental consequences of SCWC's proposed generation facility as part of its discretionary approval of this application. In general, the Commission must consider the Lead Agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline 15050(b)). We have reviewed and considered the City's Resolution and mitigation monitoring program and find that these documents are adequate for our decision-making purposes under CEQA. We find that the Lead Agency reasonably concluded in its Resolution that the construction of the proposed generation facility will have no significant environmental effect and

that the required mitigation measures are adequate to address any adverse impacts.[14]

Generating Facility Costs in Rates

In granting SCWC's application for a CPCN, we make no findings regarding the reasonableness of the cost of the generating facility, or its effect on rates. SCWC is directed to file an application with the Commission before including any costs related to the generation facility in rates.

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge was mailed to the parties in accordance with Pub. Util. Code § 311(d) and Rule 77.1 of the Rules of Practice and Procedure. Comments were received on _____.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Bruce DeBerry is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The energy capacity of the existing transmission system into the BVESD is 39-MW. This capacity includes 4 MW from an underbuild line.

2. SCWC estimates that firm customer peak demand is approximately 34-MW, and non-coincident interruptible customer peak demand is approximately 15-MW.

3. In December 2002, the peak demand of the BVESD was approximately 39-MW, including demand from interruptible customers.

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[14] The City's Resolution, and Mitigation Monitoring Program are attached to SCWC's Application as Exhibit D.

4. SCWC estimates that peak energy demand from firm customers is growing at 2.4% per year, or almost 1-MW per year.

5. All of the regression analyses used by ORA and SCWC to project future energy peaks underestimated the recorded peak usage in December 2002.

6. There is a need for future additional energy capacity in the BVESD.

7. A proposed 115-kV transmission line to replace and upgrade the existing system is the subject of litigation between SCWC and Edison. There are also several unresolved environmental issues that could impact the construction of this line.

8. SCWC analyzed a number of alternative power sources including customer self-generation and power purchases from third-parties.

9. SCWC is implementing a demand-side management and conservation program as one means of reducing peak power demand. The potential reduction in demand from this program is approximately 0.7-MW.

10. The current estimated cost of the proposed 115-kV transmission line exceeds the estimated cost of the proposed generation facility by approximately $7-$10 million on a net present value basis.

11. Current energy purchases by non-firm customers are unlikely to offset the added cost of the 115-kV line as a feasible alternate to the proposed generation facility.

12. Among the feasible alternate energy sources, construction of the proposed power generation facility is the least-cost source of new energy.

13. As a Responsible Agency under CEQA, the Commission's role is to review the environmental consequences of the proposed generation facility, and consider the Lead Agency's Negative Declaration.

14. We have considered the City's Resolution and mitigation monitoring program and conclude that it is adequate for our decision making purposes under CEQA.

15. SCWC considered that the BVESD community and local economy depend on its status as a recreational area.

16. We have considered SCWC's discussion that addresses community values, economic and recreational impacts for BVESD and find that it adequately reflects our consideration of the § 1002 factors.

17. SCWC's estimated cost of the proposed generation facility is $13 million, however we make no findings on the reasonableness of this cost for rate purposes.

Conclusions of Law

1. The Commission has jurisdiction over the proposed generation facility pursuant to §§ 1001 *et seq.*

2. Based on the record before us, we conclude that other alternative sources of power are more costly, or not feasible, and that SCWC has met its burden in analyzing and comparing costs under Pub. Util. Code § 1003(d).

3. SCWC has met its burden of providing information on the factors required in § 1002 for authorizing a CPCN.

4. The approval of SCWC's application, as provided herein, should be conditioned upon the completion of the CEQA Mitigation Monitoring Program approved by the Lead Agency.

5. After considering and weighing the values of the community, benefits to recreational areas, environmental impacts caused by the project, and the required information provided by SCWC, we conclude that the CPCN for the proposed 8.4 MW generation facility should be approved.

O R D E R

IT IS ORDERED that:

1. A Certificate of Public Convenience and necessity is granted to Southern California Water Company (SCWC) to construct an 8.4-MW generation facility on a portion of SCWC property within the City of Big Bear Lake.

2. SCWC shall comply with all California Environmental Quality Act mitigation measures specified by the City of Big Bear Lake.

3. SCWC shall file an application with the Commission prior to including any costs of the 8.4-MW generation facility in rates.

4. Application 02-04-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.